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Honorable Members of the Appropriations Committee.

The Connecticut Correctional Ombudsman has provided ombudsman services to the Department of Correction for more than 35 years. H.B. 6363 proposes to repeal CGS 18-81r which provides for ombudsman services. I urge you to oppose the elimination of the correctional ombudsman.

The Correctional Ombudsman is an integral part of the system for managing inmate behavior. Order in the prison is the paramount objective; without order there can be no positive correctional progress. The Ombudsman is instrumental in the maintenance of order through the process of responding to the complaints of inmates who have exhausted the Department of Correction's administrative remedies, and still believe that they are being treated wrongly and unfairly. The Ombudsman determines if actions and decisions of the Department are based on established authority, and if so, explains to the inmate the legitimacy of the action or decision. In doing so, the Ombudsman absorbs negative energy that might otherwise express itself in disruptive acts.

The Correctional Ombudsman contributes to the development of better correctional practices. When the Ombudsman finds that an inmate has been treated unfairly, the Ombudsman communicates his findings and recommendation to the Commissioner, or designee. Apart from the relief that the inmate may receive, the Ombudsman has made important contributions to the development of correctional practices and of their implementation.

The Correctional Ombudsman is an alternative to the use of force to achieve inmate compliance. The history of corrections is to maintain order by subordinating the inmate to the will of the State, largely by the use of physical constraints and the threat and use of force. Such methods are no doubt effective in suppressing unacceptable behaviors. But, the use of force is not an inherent part of a sentence of imprisonment. The punishments intended by the court are loss of physical freedom, loss of own decision-making, and loss of the freedom of association with family and friends. Inmates understand these

consequences of crime. But they resist actions and decisions, including use of force, that they perceive to be arbitrary, excessive, unnecessary and dehumanizing. Authority, to be effective and to fit into a plan of rehabilitation, must be perceived to be founded on legitimate tenets of government. Inmates who are released from prison believing that they have been wrongly and unfairly treated are poor candidates for a successful re-entry.

The Ombudsman methodology is to investigate the Department's actions and decisions, and establish the relationship between what is being done and what is authorized to be done. This is a significant alternative to the traditional means of maintaining control. The Ombudsman's experience is that inmates, in large numbers, even those with the deepest grievance, can be persuaded that the Department's valid actions and decisions are within the scope of the Commissioner's authority, and part of the permissible consequences of incarceration.

The Ombudsman's contribution to an orderly prison environment is often overlooked. But because the huge majority of the Department's actions and decisions are valid, it is a significant part of the Ombudsman's work. Helping inmates to adjust to the consequences of incarceration, and their families to the workings of the Department of Correction, makes the Correctional Ombudsman different from other oversight functions.

The Correctional Ombudsman has been in place for more than 35 years. It has come to be part of the basic framework of delivering correctional services. There is no one working in the Department, and very few inmates, who have experienced the Connecticut Department of Correction when the services of the Ombudsman were not available. The Ombudsman budget, this year at less than \$300,000, not even 1/20th of 1%, is a miniscule part of the State's expenditures for Corrections. Ombudsman services are a good investment. When you report this bill out of committee I hope that you will oppose the elimination of the correctional ombudsman.

A section of Frequently Asked Questions follows. I hope you will take the time to read them. Thank you for your attention.

James R. Bookwalter, Ombudsman

FREQUENTLY ASKED QUESTIONS:

What is the Connecticut Correctional Ombudsman, Inc.?

The Connecticut Correctional Ombudsman is a non-profit corporation created for the purpose of providing correctional ombudsman services to the State. The corporation was founded in 1986. The Connecticut Correctional Ombudsman existed prior to that as a program of The Hartford Institute of Criminal and Social Justice. The Ombudsman office commenced operations in June, 1973, and has provided correctional ombudsman services to the State since that time. Directors of the Connecticut Correctional Ombudsman, Inc., past and present, include:

William R. Breetz, Chm.
Robert W. Feagles
Edythe Gaines
Professor Abraham Goldstein
Professor Joseph Goldstein
Congresswoman Nancy Johnson
Clifton A. Leonhardt, Esq.

Dean Hugh Macgill
Judge Francis McCarthy, Former Chm.
Stephen B. Middlebrook, Former Chm.
Judge Robert Satter
Hope C. Seeley, Esq.
Gerard Smyth, Esq.
Robert Wiles

Under what authority does the Correctional Ombudsman operate?

Connecticut General Statutes, Section 18-81r, provides that the Department of Administrative Services shall contract annually for correctional ombudsman services. Connecticut Correctional Ombudsman, Inc. is the current grantee, and has been the grantee since 1973.

What does the Correctional Ombudsman do?

The Ombudsman responds to the complaints of inmates in the custody of the Commissioner of Correction. An inmate may file a complaint about any aspect of the circumstances of his confinement. Prior to filing a complaint with the Ombudsman the inmate must have attempted to resolve his complaint through the Department's internal grievance procedure. The Ombudsman investigates the complaint, and makes a decision as to the propriety of the Department's actions. If the Ombudsman decides in favor of the inmate, the Ombudsman makes a recommendation to the Department official having authority to resolve the complaint. If the Ombudsman decides in favor of the Department, the Ombudsman explains to the inmate, in writing, why the action or decision is within the scope of the Commissioner's authority.

How many complaints does the Ombudsman receive?

In FY 2008, the Ombudsman received 937 complaints. Through February of this fiscal year, the Ombudsman has received 667 complaints.

How is the Ombudsman different from the Department of Correction's internal grievance procedure?

The Ombudsman is independent of the Department of Correction and impartial to the interests of the inmates, staff and administration. The Ombudsman's methodology is to establish the facts of the complaint, to determine if there are applicable standards, and to determine if the Department has complied with its own standards. The Ombudsman is not an advocate for inmate interests, nor a promoter of the Department's agenda. The Ombudsman attempts to determine if the Department acted fairly according to its own governing standards. The Ombudsman does not pursue a political agenda; it operates mainly as an agent for compliance.

What do the inmates complain about?

Every aspect of an inmate's life is subject to regulation. Inmates complain about both omission and commission regarding: classification decisions, disciplinary process, use of force, sentence computation, medical treatment, quality and quantity of food, religious issues, heat, ventilation, visiting procedures, recreation, working conditions, et al. The Ombudsman has some twenty categories of complaint classifications.

Why is the Ombudsman necessary?

The Ombudsman increases the transparency and accountability of the Department of Correction. The traditional means of oversight, the legislature and the media, do not have routine access to the prisons. When they are granted access, the prison is groomed to show what the administration wants them to see.

What is the value of the Ombudsman?

The process of responding to inmate complaints is a component of the overall management of inmate behavior. The premise of the Ombudsman is that inmates will more readily acquiesce to the authority of the Department if the Department's actions and decisions are shown to be based on the lawful authority of the Department, and the basis for the action or decision is explained to them. In cases that the Ombudsman decides in favor of the inmate, the Ombudsman adds weight and credibility to the inmate's claim.

What does the Ombudsman cost?

The grant amount of the Ombudsman contract for FY 2009 was \$299,000. That amount has been reduced by 5% by the Governor's Deficit Mitigation plan.

What has the Correctional Ombudsman contributed to the Department of Correction?

- > The Ombudsman has handled more than 50,000 complaints from inmates over the years about the actions and decisions of the Department.
- > The Department of Correction contracted separately with the Correctional Ombudsman in 1983 to reconfigure and rewrite the Department's Administrative Directives.
- > The Correctional Ombudsman has been involved in every revision of the Code of Penal Discipline since the mid-1980's.
- > The Correctional Ombudsman helped to develop the Department's Inmate Grievance Procedure and was instrumental in the development of the curriculum and in the training.
- > The Correctional Ombudsman developed the curriculum for the training of disciplinary Hearing Officers and Investigators in the early 1990's and has assisted in their training ever since.
- > The Correctional Ombudsman developed a universal Inmate Handbook for use at all facilities in recognition that the profound differences from facility to facility of the various handbooks made it difficult for the inmates to know and comply with the rules when they were transferred to a new facility.
- > The Department of Correction contracted separately with the Correctional Ombudsman in 1994 to develop directives for the computation of sentences. Many of these services were provided over and above the regular services of meeting with inmates, listening to their complaints, and processing them according to the Ombudsman's methodology.

Why is the Correctional Ombudsman contract under the Department of Administrative Services?

In 2005, the General Assembly transferred contracting authority from the Department of Correction to the Department of Administrative Services to increase the separation of the Ombudsman from the Department of Correction, and thereby enhance its independence.

Will the State save money by eliminating the Correctional Ombudsman?

The savings would likely be minimal. Elimination of the ombudsman would probably lead to increased costs due to increased pressure on the Department's own response systems and may lead to increased litigation.

What will happen if the State eliminates the Correctional Ombudsman?

There is almost no way of knowing what would happen. The ombudsman function does not lend itself to the kind of objectivity of ordinary outcomes and measurements. The Department of Correction was established in 1968; the Ombudsman commenced work in 1973. There is no one working in the Department, and very few inmates, who have experienced incarceration when the Ombudsman was not available.

The transactions that occur between staff and inmates are largely circumstantial, are not characterized by objective indicia, and do not occur under direct supervision. The presence of an independent ombudsman has a positive effect on the way that day-to-day transactions unfold and are reviewed. The positive effect is not quantifiable. No proof can be offered. In the correctional environment, the elements of cause and effect are complex, and prone to a high degree of political construction.

The best answer to the question can probably be provided by considering the unique combination of factors that *lead to tensions* that build up behind prison walls. The civil rights of inmates are greatly diminished as a result of the incarceration. The security requirements foreclose access by the public and the press. There is little public sympathy for the problems of inmates. The policies and practices of the Department are almost entirely at the discretion of the commissioner. Taken together the above factors create an environment in which actions and decisions are susceptible to error and, when error does occur, are susceptible to being glossed over.

What are the essential characteristics of a correctional ombudsman?

Independence	Impartiality	Universal access
Privileged communications	Broad power to investigate	
Power to make recommendations only	Expertise	

If the Connecticut Correction Ombudsman is valuable, why is it not more familiar to the General Assembly?

The Connecticut Correctional Ombudsman is a non-partisan agency with no political agenda. The low profile of the office is intentional; the Connecticut Correctional Ombudsman does not seek publicity, nor engage in lobbying or self-promotion.

What steps are needed to retain Correctional Ombudsman services?

- a. Remove Section 18-81r from Section 19 of H.B. 6363.
- b. Oppose the elimination of ombudsman services from other bills that might arise.
- c. Restore Ombudsman funding in the Committee's Joint F favorable substitute for H.B. 6365. (The passage of either H.B. 6363 or 6365 would cause services to cease on June 30, 2009, and the agency to discontinue operating for lack of funds.)